

RESOLUTION 2017-38

**A RESOLUTION ADOPTING AN UPDATED POLICY
OF THE CITY OF WEBSTER GROVES, MISSOURI,
REGARDING ACCESS TO PUBLIC RECORDS**

WHEREAS, the City of Webster Groves has long had a policy of following the Missouri Open Meetings and Records Law, known as the Sunshine Act, which is found at Chapter 610, RSMo.; and

WHEREAS, the City Council now wishes to update its policy to provide further clarity, guidance and consistency with the current version of the Sunshine Act;

NOW, THEREFORE, be it resolved by the City Council of the City of Webster Groves, Missouri, as follows:

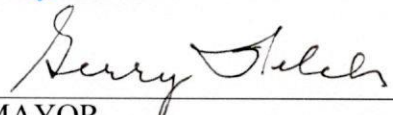
Section 1. The City's Sunshine Act Policy is hereby adopted as set forth in the attached Appendix A to this Resolution.

Section 2. It is hereby declared to be the intent of the Council, in adopting this Resolution, that all provisions hereof be construed in accordance with statutory and common law; that the sections, paragraphs, sentences, clauses and phrases of this Resolution be severable and, if any section, paragraph, sentence, clause or phrase of this Resolution be declared unconstitutional by a valid judgment or decree of a competent court possessing jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Resolution.

Section 3. The headings of the sections in bold face or capital letters are intended as mere section headings and are not a part of this Resolution, the same being for convenience only and not to be used in the construction or interpretation of any part of this Resolution.

Section 4. This Resolution shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 19th day of September 2017.


MAYOR

ATTEST:


CITY CLERK

ATTACHMENT "A" TO RESOLUTION 2017-

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Section 1. Open Meetings and Records Policy. This Policy shall be known as the Open Meetings and Records Policy of the City of Webster Groves.

Section 2. Meetings, Records and Votes To Be Public - Exceptions. All meetings, records, votes, actions and deliberations of public governmental bodies of the City shall be open to the public in accordance with Chapter 610, RSMo., except records related to one (1) or more of the following matters, which shall be, and are hereby deemed, closed unless the public governmental body votes to make them public:

1. Legal actions, causes of action or litigation involving the City and any confidential or privileged communications between the City or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving the City or any agent or any entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of the City as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact of disclosure clearly outweighs the public policy considerations of Section 610.011, RSMo.; however, the amount of any moneys paid by, or on behalf of, the City shall

be disclosed; notwithstanding the foregoing, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record.

2. Leasing, purchase or sale of real estate by the City where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by the City shall be made public upon full execution of the lease, purchase or sale of the real estate.

3. Hiring, firing, disciplining or promoting of particular employees by the City when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by the City, to hire, fire, promote or discipline an employee shall be made available to the public with a record of how each member voted within seventy-two (72) hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public. As used in this Subsection, the term "personal information" means information relating to the performance or merit of individual employees.

4. The State Militia or National Guard or any part thereof.

5. Non-judicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological or alcoholism or drug dependency diagnosis or treatment.

6. Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual test or examination scores.

7. Testing and examination materials, before the test or examination is given, or if it is to be given again, before so given again.

8. Welfare cases of identifiable individuals.

9. Preparation, including any discussions or work product, on behalf of the City or its representatives for negotiations with employee groups.

10. Software codes for electronic data processing and documentation thereof.

11. Specifications for competitive bidding, until either the specifications are officially approved by the City or the specifications are published for bid.

12. Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected.

13. Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of the City once they are employed as such.

14. Records that are protected from disclosure by law, including but not limited to tax records made confidential by State or Federal law, information received from executive agencies pursuant to Section 610.032, RSMo., and Social Security numbers received from a State entity pursuant to Section 610.035, RSMo., records of ownership of a firearm or applications for ownership, licensing, certification, permitting, or an endorsement that allows a person to own, acquire, possess, or carry a firearm as provided in Section 571.011, RSMo., information regarding any holder of a concealed carry permit, or a concealed carry endorsement issued prior to August 28, 2013, as provided in Section 571.037, RSMo.

15. Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest.

16. Records relating to municipal hotlines established for the reporting of abuse and wrongdoing.

17. Confidential or privileged communications between the City and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to Chapter 610, RSMo.

18. Operational guidelines, policies and specific response plans developed, adopted, or maintained by the City for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. The City states that the disclosure of such information would impair the City's ability to protect the security or safety of persons or real property, and the public interest in non-disclosure outweighs the public interest in disclosure of such records. Financial records related to the procurement of or expenditures relating to operational guidelines, policies or plans purchased with public funds shall be open.

19. Existing or proposed security systems and structural plans of real property owned or leased by the City, and information that is voluntarily submitted by a non-public entity owning or operating an infrastructure to the City for use to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety.

a. Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open.

b. The City states that disclosure of such closed records would impair its ability to protect the security or safety of persons or real property, and states that the public interest in non-disclosure outweighs the public interest in disclosure of the records.

c. Records that are voluntarily submitted by a non-public entity shall be reviewed within ninety (90) days of submission to determine if retention of the document is necessary in furtherance of a State security interest. If retention is not necessary, the documents shall be returned to the non-public governmental body or destroyed.

20. The portion of a record that identifies security systems or access codes or authorization codes for security systems of real property.

21. Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of the City. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, the City for such computer, computer system, computer network, or telecommunications network shall be open.

22. Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between the City and a person or entity doing business with the City. Nothing in this Section shall be deemed to close the record of a person or entity using a credit card held in the name of the City or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by the City.

Section 3. Closed Meetings — How Held.

A. Before closing a meeting or vote to the public, either notice shall be provided pursuant to Section 4 of this policy, or a majority of a quorum of the public governmental body must vote to do so in a public vote and the vote of each member of the public governmental body on the question of closing the meeting or vote and the reason for closing the meeting or vote by reference to a specific exception under Chapter 610, RSMo., shall be announced at a public meeting and entered into the minutes. In the event any member of a public governmental body makes a motion to close a meeting, or a record, or a

vote from the public and any other member believes that such motion, if passed, would cause a meeting, record or vote to be closed from the public in violation of any provision in Chapter 610, RSMo., such latter member shall state his or her objection to the motion at or before the time the vote is taken on the motion. The public governmental body shall enter in the minutes of the public governmental body any such objection made. Any member making such an objection shall be allowed to fully participate in any meeting, record or vote that is closed from the public over the member's objection. In the event the objecting member also voted in opposition to the motion to close the meeting, record or vote at issue, by Statute the objection and vote of the member as entered in the minutes shall be an absolute defense to any claim filed against the objecting member pursuant to Section 610.027, RSMo.

B. The public governmental body shall give notice of the time, date and place of a proposed closed meeting and the reason for holding it by reference to a specific exception allowed pursuant to the provisions of Section 610.021, RSMo. The notice shall comply with Section 4 below.

C. Any meeting or vote closed pursuant to Section 610.021, RSMo., shall be closed only to the extent necessary for the specific reason(s) announced to justify the closed meeting or vote. No business may be discussed in a closed meeting that does not directly relate to the specific reason announced to close the meeting to the public. Public governmental bodies holding a closed meeting must close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.

Section 4. Notices of Meetings; Attendance.

A. A public governmental body shall give notice of the time, date, place and tentative agenda of each meeting, in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. If the public governmental body plans to meet by Internet chat, Internet message board, or other computer link, it shall post a notice of the meeting on its web site in addition to its principal office and shall notify the public how to access that meeting. (However, see Section 160.090 below.) Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent with the notice being made available to the members of the particular governmental body and posting the notice on the designated bulletin board at the Government Center.

B. Notice conforming with all of the applicable requirements shall be given at least twenty-four (24) hours, exclusive of weekends and holidays when the facility is closed, prior to the commencement of any meeting of a public governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. If another provision of law requires a manner of giving specific notice of a meeting, hearing or an intent to take action by a public governmental body, compliance with that law shall constitute compliance with the notice requirements in this Section.

C. Members may attend and votes may be cast by video-conference, telephone, facsimile, internet, or any other voice or electronic means, in accordance with the procedures set forth in Section 610.015, RSMo.

Section 5. Notice Required For Public Meeting On Tax Increases, Eminent Domain, Creation of Certain Districts and Certain Redevelopment Plans. For any public meeting where a vote of the City Council is required to implement a tax increase, or with respect to a retail development project when the City Council votes to utilize the power of eminent domain, create a transportation development district or a community improvement district, or approve a redevelopment plan that pledges public funds as

financing for the project or plan, the City shall give notice conforming with all requirements of Subsection (1) of Section 610.020, RSMo., (and Section 5 of this policy) at least four (4) days before the City Council may vote on such issues, exclusive of weekends and holidays when the Government Center is closed; provided that this Section shall not apply to any votes or discussions related to proposed ordinances which require a minimum of two (2) separate readings on different days for their passage. The provisions of Subsection (4) of Section 610.020, RSMo., (and Section 4 of this policy) shall not apply to any matters that are subject to the provisions of this Section. No vote shall occur until after a public meeting on the matter at which the parties in interest and the citizens shall have an opportunity to be heard. If the notice required under this Section is not properly given, no vote on such issues shall be held until proper notice has been provided under this Section. Any legal action challenging compliance with the notice requirements provided herein shall be filed within thirty (30) days of the subject meeting, or such meeting shall be deemed to have been properly held as provided in Section 67.2725, RSMo. For the purpose of this Section, a tax increase shall not include the setting of annual tax rates provided for under Sections 67.110 and 137.055, RSMo.

Section 6. Accessibility of Meeting. Each meeting of a public governmental body of the City shall be held at a place reasonably accessible to the public and of sufficient size to accommodate the anticipated attendance by members of the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Every reasonable effort shall be made to grant special access to the meeting to handicapped or disabled individuals.

Section 7. Necessity to Waive Notice, Accessibility or Convenience — Procedure. When it is necessary to hold a meeting on less than twenty-four (24) hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

Section 8. Subunit of Governmental Body — No Notice Required, When. A formally constituted subunit of a parent governmental body of the City may conduct a meeting without notice during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting, if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

Section 9. City to Allow Certain Electronic Recordings — Guidelines. A public governmental body of the City shall allow for the recording by audiotape, videotape, or other electronic means of any open meeting. The City may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. No audio recording of any meeting, record, or vote closed pursuant to the provisions of Section 610.021, RSMo., shall be permitted without permission of the public body.

Section 10. Journal of Meetings; Records of Voting; Votes Cast, How. A journal or minutes of open and closed meetings shall be taken and retained by each public governmental body of the City, including but not limited to a record of any votes taken at such meetings. The minutes shall include the date, time, place, members present, members absent and a record of any votes taken. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" or abstention if not voting to the name of the individual member of the public governmental body. Any votes taken during a closed meeting shall be taken by roll call. All public meetings shall be open to the public, and public votes and public records shall be open to the public for inspection and duplication. Except as otherwise provided herein or in

Section 4.C., all votes taken by roll call in meetings of a public governmental body of the City shall be cast by members of the body who are physically present and in attendance at the meeting. When it is necessary to take votes by roll call in a meeting of the City Council, due to an emergency of the City Council, with a quorum of the members physically present and in attendance and less than a quorum of the members (including the Mayor) participating via telephone, facsimile, Internet, or any other voice or electronic means besides videoconference pursuant to Section 4.C., the nature of the emergency of the City Council justifying that departure from the normal requirements shall be stated in the minutes. Where such emergency exists, the votes taken shall be regarded as if all Council members and the Mayor were physically present and in attendance at the meeting.

Section 11. Custodian Designated — Response to Request For Access To Records.

A. The City Clerk is the custodian of records and is responsible for maintenance and control of all public records. The City Clerk shall provide public access to all open public records as soon as possible and shall respond no later than the third (3rd) business day following the date the request is received by the City Clerk. If records are requested in a certain format, the City Clerk shall provide the records in the requested format, if such format is available without creating a new record. If access to the public record is not granted within three (3) business days, the City Clerk shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record(s) will be available for inspection. This period for document production may exceed three (3) days for reasonable cause.

B. No person shall remove original public records from the offices of the City without written permission of the City Clerk. The City shall not grant to any person or entity, whether by contract, license or otherwise, the exclusive right to access and disseminate any public record.

C. If a public record contains material which is not exempt from disclosure as well as material which is exempt from disclosure, the City Clerk shall separate the exempt and non-exempt material and make the non-exempt material available for examination and copying. When designing a public record, the City shall, to the extent practicable, facilitate a separation of exempt from non-exempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the information, the City Clerk shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat that purpose of the exemption.

D. If a request for access is denied, the City Clerk shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester no later than the end of the third (3rd) business day following the date the request for the statement is received.

Section 12. Fees for Copying Public Records — Limitations; Deputy Custodians.

A. The City shall charge ten cents (\$.10) per page for a paper copy not larger than nine (9) by fourteen (14) inches (color copies and larger documents may reflect a higher fee), and actual cost of clerical employee time that results in the lowest cost per hour for duplicating time, and the actual cost of research time. The City Clerk may require payment prior to duplicating copies. Based on the scope of the request, the City shall produce the copies using employees of the body that result in the lowest amount of charges for search, research, and copying time. Prior to producing copies of the requested records, the person requesting the records may request the City to provide an estimate of the cost to the person requesting the records. Documents may be furnished without charge or at a reduced charge when the City Council's designee, the City Clerk, determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the City and is not primarily in the commercial interest of the requester. In making such determinations, the City Clerk shall apply the standards set forth in the Sunshine Law and controlling

common law (See, e.g., 610.026, RSMo.). Any person denied a waiver by the City Clerk may appeal the decision to the City Manager in writing and filed with the City Clerk within 5 business days of the written decision of the City Clerk denying the waiver. The City Manager, upon receipt of a properly filed appeal, shall take up the matter on a non-contested basis at a hearing to be set not more than 15 days after the filing of a written appeal.

B. Fees for providing access to public records maintained on computer facilities, recording tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine (9) by fourteen (14) inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the City required for making copies and programming, if necessary, and the cost of the disk, tape, or other medium used for the duplication. Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual costs of such programming.

C. The City Clerk shall remit all moneys received from fees charged pursuant to Sections 610.010 and 610.028, RSMo., to the appropriate fiscal officer of the City for deposit to the City's accounts.

D. The City Clerk may designate deputy custodians in the following departments:

- Administrative
- Finance
- Fire
- Community Development
- Planning & Development
- Public Works
- Parks and Recreation
- Police

Section 13. Electronic Transmissions — Public Records — When.

A. To the extent the City keeps its records in an electronic format, it will try to provide access to its public records to members of the public in a useable electronic format. The City may not enter into a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of the City, including public records that are on-line or stored in an electronic recordkeeping system used by the City. Such contract for a public records database may not allow any impediment that as a practical matter makes it more difficult for the public to inspect or copy database records in the possession of the third-party contractor providing the public records database than to inspect or copy records held directly by the City Clerk. For purposes of this Section, a useable electronic format shall allow, at a minimum, viewing and printing of records. However, if the City keeps a record on a system capable of allowing the copying of electronic documents into other electronic documents, the City shall provide data to the public in such electronic format, if requested. The activities authorized pursuant to this Section may not take priority over the primary responsibilities of the City. For purposes of this Section the term "electronic services" means on-line access or access via other electronic means to an electronic file or data base.

The City shall include in a contract for electronic services provisions that:

1. Protect the security and integrity of the information system of the City and information systems that are shared by public governmental bodies; and
2. Limit the liability of the City for providing the services.

B. Any member of a public governmental body of the City who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this Section shall only apply to messages sent to two (2) or more members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the City Clerk or at the member's office computer shall be a public record subject to the exceptions for closed records set forth in Section 2 above.

Section 14. Definitions. As used in this policy, the following terms shall have these prescribed meanings:

"ARREST" An actual restraint of the person of the defendant, or by his or her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked.

"ARREST REPORT" A record of a Law Enforcement Agency of an arrest and of any detention or confinement incident thereto together with the charge therefor.

"INACTIVE" An investigation in which no further action will be taken by a Law Enforcement Agency or officer for any of the following reasons:

1. A decision by the Law Enforcement Agency not to pursue the case;
2. Expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or ten (10) years after the commission of the offense; whichever date earliest occurs;
3. Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons.

"INCIDENT REPORT" A record of a Law Enforcement Agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency.

"INVESTIGATIVE REPORT" A record, other than an arrest or incident report, prepared by personnel of a Law Enforcement Agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by Law Enforcement Officers in the course of their duties.

"MOBILE VIDEO RECORDER" Any system or device that captures visual signals that is capable of being installed in a vehicle or being worn or carried by personnel of a Law Enforcement Agency and that includes, at minimum, a camera and recording capabilities.

"MOBILE VIDEO RECORDING" Any data captured by a mobile video recorder, including audio, video, and any metadata.

"NON-PUBLIC LOCATION" A place where a person would have a reasonable expectation of privacy, including, but not limited to, a dwelling, school or medical facility.

Section 15. Police Department Records.

A. The City Police Department shall maintain records of all incidents reported to it, and investigations and arrests made by it. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the provisions of Subsections (4), (5) and (6) of Section 610.100, RSMo., or Section 320.083, RSMo., except as provided herein mobile video recordings and investigative reports are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty (30) days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed and except as provided in Section 610.120, RSMo.

B. Except as provided in Subsections (3) and (5) of Section 610.100, RSMo., a mobile video recording that is recorded in a non-public location shall be a closed record, except that any person who

is depicted in the recording or whose voice is in the recording, or their legal guardian or parent if such person is a minor, or a family member within the first degree of consanguinity if such person is deceased or incompetent, or an attorney or insurer for such person, may obtain a complete, unaltered, and unedited copy of the recording upon written request, once any related investigation has become inactive or as otherwise required by law. Any person who requests and receives such a mobile video recording shall be subject to the restrictions on display and disclosure set forth in Subsection (8) of Section 610.100, RSMo.

C. Except as provided in Subsections (4), (5), (6) and (7) of Section 610.100, RSMo., if any portion of a record or document of a Law Enforcement Officer or Agency, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to Chapter 610, RSMo.

D. Any person, including a legal guardian or parent of such person if he or she is a minor, family member of such person within the first degree of consanguinity if such person is deceased or incompetent, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to Section 610.100; RSMo., or Section 610.150, RSMo., for purposes of investigation of any civil claim or defense, as provided by Section 610.100.4, RSMo., and this policy. Any individual, legal guardian or parent of such person if he or she is a minor, his or her family member within the first degree of consanguinity if such individual is deceased or incompetent, his or her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete, unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by the Police Department pursuant to Section 610.100, RSMo. Within thirty (30) days of such request, the Department shall provide the requested material or file a motion with the Circuit Court of St. Louis County stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized and thereafter comply with the final rulings of the Courts thereon.

E. The victim of an offense as provided in Chapter 566, RSMo., may request that his or her identity be kept confidential until a charge relating to such incident is filed.

Section 16. Criminal Background Checks Completed Without Fee, When. Whenever a criminal background check is requested in connection with gaining employment, housing or any other services or benefit of any homeless former member of the organized militia or the Armed Forces of the United States who has been honorably discharged, such background check shall be completed and transmitted to the requesting party without any fee or other compensation for such background check or copy of any relevant public record pertaining to such request. For purposes of this Section, "homeless" means an involuntary state characterized by a lack of housing or shelter.

Section 17. Effect of *Nolle Prosequi*, Dismissal and Suspended Imposition of Sentence on Records.

A. If a person arrested is charged, but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty or imposition of sentence is suspended in the court in which the action is prosecuted, official records pertaining to the case shall thereafter be closed records when such case is finally terminated except as provided in Subsection (2) of Section 610.105, RSMo., and Section 610.120, RSMo., and except that the court's judgment or order or the final action taken by the prosecutor in such

matters may be accessed. If the accused is found not guilty due to mental disease or defect pursuant to Section 552.030, RSMo., official records pertaining to the case shall thereafter be closed records upon such findings, except that the disposition may be accessed only by law enforcement agencies, child-care agencies, facilities as defined in Section 198.006, RSMo., and in-home services provider agencies as defined in Section 660.250, RSMo., in the manner established by Section 610.120, RSMo.

B. If the person arrested is charged with an offense found in Chapter 566, RSMo., Sections 568.045, 568.050, 568.060, 568.065, 568.080, 568.090, or 568.175, RSMo., and an imposition of sentence is suspended in the court in which the action is prosecuted, the official records pertaining to the case shall be made available to the victim for the purpose of using the records in his or her own judicial proceeding, or if the victim is a minor to the victim's parents or guardian, upon request.

Section 18. Public Access of Closed Arrest Records.

A. Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in Section 610.120, RSMo., and Section 43.507, RSMo. The closed records shall be available to: criminal justice agencies for the administration of criminal justice pursuant to Section 43.500, RSMo., criminal justice employment, screening persons with access to criminal justice facilities, procedures, and sensitive information; to law enforcement agencies for issuance or renewal of a license, permit, certification, or registration of authority from such agency, including but not limited to watchmen, security personnel, private investigators, and persons seeking permits to purchase or possess a firearm; those agencies authorized by Section 43.543, RSMo., to submit and when submitting fingerprints to the central repository; the Sentencing Advisory Commission created in Section 558.019, RSMo., for the purpose of studying sentencing practices in accordance with Section 43.507, RSMo.; to qualified entities for the purpose of screening providers defined in Section 43.540, RSMo.; the Department of Revenue for driver license administration; the Division of Workers' Compensation for the purposes of determining eligibility for crime victims' compensation pursuant to Sections 595.010 to 595.075, RSMo., Department of Health and Senior Services for the purpose of licensing and regulating facilities and regulating in-home services provider agencies and Federal agencies for purposes of criminal justice administration, criminal justice employment, child, elderly, or disabled care, and for such investigative purposes as authorized by law or presidential executive order.

B. These records shall be made available only for the purposes and to the entities listed in this Section. Upon receipt of a request for criminal history information under its control, the Police Department may require positive identification, to include fingerprints of the subject of the record search, prior to releasing closed record information. Dissemination of closed and open records from the Missouri criminal records repository shall be in accordance with Section 43.509, RSMo. All records which are closed records shall be removed from the records of the courts, administrative agencies, and law enforcement agencies which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

C. All records ordered to be expunged pursuant to Section 610.123, RSMo., shall be destroyed, except that if destruction of the record is not feasible because of the permanent nature of the record books, such record entries shall be blacked out. Entries of a record ordered expunged pursuant to Section 610.123, RSMo., shall be removed from all electronic files. All records ordered to be expunged pursuant to Section 610.140, RSMo., shall be closed in the manner established therein and in Section 610.120, RSMo.

Section 19. Crime Scene Photographs and Video Recordings.

A. Crime scene photographs and video recordings, including photographs and video recordings created or produced by a state or local agency or by a perpetrator or suspect at a crime scene, which depict or describe a deceased person in a State of dismemberment, decapitation, or similar mutilation, including, without limitation, where the deceased person's genitalia are exposed, shall be considered closed records and shall not be subject to disclosure under the provisions of this Chapter unless otherwise ordered by court or required by law; provided, however, that this Section shall not prohibit disclosure of such material to the deceased's next of kin or to an individual who has secured a written release from the next of kin. It shall be the responsibility of the next of kin to show proof of the familial relationship. For purposes of such access, the deceased's next of kin shall be:

1. The spouse of the deceased, if living;
2. If there is no living spouse of the deceased, an adult child of the deceased; or
3. If there is no living spouse or adult child, a parent of the deceased.

B. The provisions of this Section shall not apply to disclosure of crime scene material to counsel representing a convicted defendant in a habeas corpus action, on a motion for new trial, or in a Federal habeas corpus action under 28 U.S.C. § 2254 or 2255 for the purpose of preparing to file or litigating such proceedings. Counsel may disclose such materials to his or her client and any expert or investigator assisting counsel in accordance with Section 610.205, RSMo. A request under this Subsection shall clearly state that such request is being made for the purpose of preparing to file and litigate proceedings enumerated in this Subsection.

Section 20. "911" Telephone Reports. Except as provided herein, any information acquired by the Police Department by way of a complaint or report of a crime made by telephone contact using the emergency number, "911", shall be inaccessible to the general public. However, information consisting of the date, time, specific location and immediate facts and circumstances surrounding the initial report of the crime or incident shall be considered to be an incident report and subject to Section 15 of this policy. Any closed records pursuant to this Section shall be available upon request by law enforcement agencies or the Division of Workers' Compensation or pursuant to a valid court order authorizing disclosure upon motion and good cause shown.

Section 21. Daily Log or Record Maintained By Police Department of Crimes, Accidents or Complaints — Public Access to Certain Information.

A. The Police Department shall maintain a daily log or record that lists suspected crimes, accidents, or complaints and shall make available the following information for inspection and copying by the public:

1. The time, substance, and location of all complaints or requests for assistance received by the Department;
2. The time and nature of the Department's response to all complaints or requests for assistance; and
3. If the incident involves an alleged crime or infraction:
 - a. The time, date, and location of occurrence;
 - b. The name and age of any victim, unless the victim is a victim of a crime under Chapter 566, RSMo.;
 - c. The factual circumstances surrounding the incident; and
 - d. A general description of any injuries, property or weapons involved.